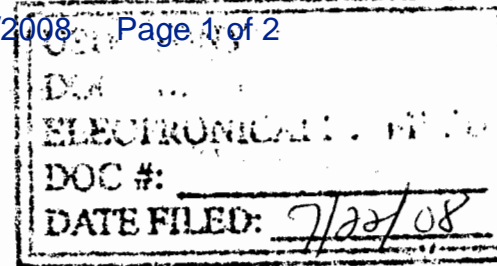


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
JAMES KIRK,

Petitioner,

-v.-

JOHN BURGE,

Respondent.  
-----X**ORDER**

07 Civ.7467(LTS)(GWG)

**GABRIEL W. GORENSTEIN**, United States Magistrate Judge.

The Court is in receipt of a letter dated July 13, 2008 (with attachments) from the petitioner in which petitioner seeks to amend his petition and/or "hold [it] in abeyance" based on a post-judgment motion apparently filed by petitioner pro se. The Court notes that this letter was improperly sent to the Court because a copy was not provided to the respondent's attorney. Also, the petitioner is represented and thus he should not be sending letters to the Court as long as that representation continues. If petitioner does not wish to have Mr. Kirton continue to represent him, he should so inform the Court.

The Court is herewith providing a copy of the letter with attachments to Mr. Kirton and the respondent's attorney. Petitioner is directed to send a letter to the Court (with a copy to respondent's counsel) on or before August 15, 2008 informing the Court whether Mr. Kirton will be representing him or whether he is proceeding pro se. On or before August 29, 2008, the person authorized to speak for petitioner – either the petitioner himself or Mr. Kirton – may file any motion to amend the petition and/or stay these proceedings. If no such motion is made by that date, the Court will consider the petition in its current form.

SO ORDERED.

Dated: New York, New York  
July 22, 2008

  
\_\_\_\_\_  
GABRIEL W. GORENSTEIN  
United States Magistrate Judge

Copy to:

Marlon G. Kirton, P.C.  
230 Park Ave., Suite 1000  
New York, NY 10169

James Kirk  
# 04-A-1459  
Elmira Correctional Facility  
PO Box 500  
1879 Davis St.  
Elmira, NY 14902-0500

Alyson J. Gill  
Assistant Attorney General  
120 Boradway  
New York, NY 10271